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Mailed September 2, 2008

#### NOTICE OF GROUNDS OF REJECTION

Patent Application No.

582366/2002

**Drafting Date** 

August 21, 2008

Patent Office Examiner

Yuki Ueshima

(3364 5M00)

Attorney

Mr. Hisao Fukami (et al.)

Applied Provision

Paragraph 2 of Article 29, Article 36

The present application is recognized as rejected on the following grounds. It is required that any remarks be submitted within three months from the date on which the present NOTICE was mailed.

#### **GROUNDS**

A. It is recognized that, because the invention described in Claim(s) of SCOPE OF CLAIMS FOR PATENT of the present application could have been invented readily by a person having ordinary knowledge in the field of the art to which the present invention pertains prior to the filing of the present application based on the invention as described in the following publication(s) distributed or the invention as made available to the public through electric telecommunication lines in Japan and/or foreign countries prior to the filing of the present application, a patent cannot be granted thereto under the provision of Paragraph 2 of Article 29 of the Patent Law.

REMARKS (See the list of the cited references.)

Claims 1-30

References 1-3

Notes:

Reference 1 discloses that parallel processes are created to perform repeated backup operations when directories and files are copied for backup (see SUMMARY OF THE INVENTION).

As disclosed in Reference 2, it is the known art that an upper limit for the number of simultaneously executable processes is provided and execution of the processing request exceeding the upper limit is temporarily awaited until any of the processes is completed and the number of processes falls below the upper limit (see [Abstract]). Therefore, it could have readily occurred to those skilled in the art to compare a current number of processes, started for copying, with a limit, and wait if the current number is greater than or equal to the limit, in the invention disclosed in Reference 1.

Reference 3 discloses that a capacity limit is set for a storage device, and when the set capacity is reached, an email message is sent to provide notification to the user. Therefore, it could have readily occurred to those skilled in the art that, in the invention disclosed in Reference 1, during the copying, an email message is sent if a resource at a destination is full.

The other matters of the present invention could have been appropriately achieved by those skilled in the art by applying the well-known arts.

#### LIST OF CITED REFERENCES

- 1. International Publication No. WO94/17474
- 2. Japanese Patent Laying-Open No. 5-151179
- 3. "Quota Manager Managing Directory Capacity for Windows NT" by Noriharu Tanaka, LAN TIMES, Japan, Softbank Corporation, April 1, 1997, Vol. 7, No. 4, p. 196-199

(Notice) A part or all of the cited non-patent document may not be sent because of restrictions by laws, contracts or the like.

B. It is recognized that the present application does not satisfy the conditions prescribed in Paragraph 6 (ii) of Article 36 of the Patent Law because of the defectiveness of the description in SCOPE OF CLAIMS FOR PATENT on the following point.

#### REMARKS

Claim 29 recites "A computer readable storage medium encoded with software." It is unclear what encoding of a computer readable storage medium with software refers to. Therefore, the meaning of "A computer readable storage medium encoded with software" cannot be clearly understood. (See Examination Guidelines for Patent and Utility Model, Part VII, Chapter 1, Section 1.1.1(2).)

Record of Search for Prior Art Documents

\* Searched Technical Field

IPC G06F 12/00

DB name JSTPlus (JDream2)

This record of search for prior art documents does not form any grounds of rejection.

## 発送番号:517930 発送日:平成20年 9月 2日

### 拒絕理由通知書



特許出願の番号

特願2002-582366

起案日

平成20年 8月21日

特許庁審査官

上嶋 裕樹

3364 5M00

特許出願人代理人

深見 久郎(外 5名) 様

適用条文

第29条第2項、第36条

この出願は、次の理由によって拒絶をすべきものです。これについて意見がありましたら、この通知書の発送の日から3か月以内に意見書を提出してください。

### 理由

A. この出願の下記の請求項に係る発明は、その出願前に日本国内又は外国において、頒布された下記の刊行物に記載された発明又は電気通信回線を通じて公衆に利用可能となった発明に基いて、その出願前にその発明の属する技術の分野における通常の知識を有する者が容易に発明をすることができたものであるから、特許法第29条第2項の規定により特許を受けることができない。

# 記(引用文献等については引用文献等一覧参照)

- ·請求項1-30
- · 引用文献 1-3
- 備考

引用文献1 (SUMMARY OF THE INVENTION 参照)には、ディレクトリ及びファイルをバックアップするためにコピーするとき、反復的にバックアップオペレーションを行うため並列プロセスが生成される旨記載されている。

引用文献2([要約]参照)に記載されているように、同時実行可能プロセス数の上限を設け、上限を超える処理要求に対しては、いずれかのプロセスが終了して上限を下回るまで、実行を一時待機させることは公知の技術であるから、引用文献1に記載された発明において、コピーするために開始されたプロセスの現在の数を制限と比較し、現在の数が制限よりも大きいまたは制限と等しい場合に待機することは、当業者が容易に想到し得たことである。

引用文献3には、記憶装置に容量制限が設定され、設定容量に到達するとメールを送信してユーザに通知することが記載されているから、引用文献1に記載された発明において、コピーの際、宛先のリソースが一杯である場合、eメールメ

ッセージを送信することは、当業者が容易に想到し得たことである。

本願発明のその他の事項は、周知の技術を適用して、当業者が適宜なし得た事項である。

### 引用文献等一覧

- 1. 国際公開第94/17474号
- 2. 特開平5-151179号公報
- 3.田中紀治, Windows NTのディレクトリ容量を管理するQuota Manager, LAN TIMES, 日本, ソフトバンク株式会社, 1997年 4月 1日, 第7巻, 第4号, 第196-199頁
- (注) 法律又は契約等の制限により、提示した非特許文献の一部又は全てが送付されない場合があります。
- B. この出願は、特許請求の範囲の記載が下記の点で、特許法第36条第6項第2号に規定する要件を満たしていない。

記

請求項29には、「ソフトウェアで符号化されたコンピュータ読取可能記憶媒体であって」と記載されているが、コンピュータ読取可能記憶媒体をソフトウェアで符号化するとはどのようなことであるか不明であるから、「ソフトウェアで符号化されたコンピュータ読取可能記憶媒体」の意味を明確に把握することができない。(特許・実用新案審査基準 第VII部 第1章 1.1.1(2)参照)

### 先行技術文献調査結果の記録

・調査した分野 IPC G06F12/00 DB名 JSTPlus (JDream2)

この先行技術文献調査結果の記録は拒絶理由を構成するものではありません。